

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

U.S. SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

HARBINGER CAPITAL PARTNERS LLC; PHILIP A.  
FALCONE; AND PETER A. JENSON,

Defendants.

ECF CASE

Case No. 12-CIV-5028

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Philip A. Falcone and Harbinger Capital Partners LLC (“the Harbinger Defendants”) upon the accompanying Memorandum of Law In Support of Their Motion to Dismiss Plaintiff’s Complaint and the declaration of Matthew S. Dontzin and the exhibits annexed thereto, move this Court, before the Honorable Paul A. Crotty, to dismiss Plaintiff Securities and Exchange Commission’s complaint, dated June 27, 2012, for failure to state a claim upon which relief can be granted for reasons more fully explained in the accompanying memorandum in support.

WHEREFORE, the Harbinger Defendants respectfully request that this Court dismiss the Complaint in its entirety and grant such other relief as the Court may consider appropriate.

Dated: November 30, 2012  
New York, New York

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